

Ian McIntosh  
Mac Morris  
CROWLEY FLECK PLLP  
1915 South 19<sup>th</sup> Avenue  
P.O. Box 10969  
Bozeman, MT 59719-0969  
Telephone: (406) 556-1430  
Facsimile: (406) 556-1433

*Attorneys for Defendant Big Sky Resort*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION

JOHN MEYER,

Plaintiff,

vs.

BIG SKY RESORT, SALEWA USA  
LLC,

Defendants.

Cause No. 18- CV-00002-BMM

**BIG SKY RESORT'S  
SUPPLEMENTAL RESPONSES TO  
PLAINTIFF'S SECOND  
DISCOVERY REQUESTS**

Defendant Big Sky Resort ("Big Sky") hereby supplements its responses to  
"Plaintiff's Second Discovery Request to Big Sky Resort" as follows:

**REQUEST FOR PRODUCTION NO. 4 (sic 14):** Please produce all  
documents related to previous injuries that occurred at or near the site of Meyer's  
accident from the last ten years.

**EXHIBIT F**

**RESPONSE:** Big Sky objects that it does not yet know exactly where Meyer wrecked. Big Sky knows where Meyer came to rest after his wreck, but because Meyer has refused to be deposed, Big Sky does not know if Meyer claims he wrecked due to the variation in terrain between Highway and the cat track, due to the variation in terrain between the cat track and the ungroomed section of Lower Morning Star unofficially known as Bermuda Triangle, or on the cat track due to Meyer's alleged binding failure.

Big Sky further objects that this discovery request is vague because Meyer has not defined the term "near the site of Meyer's accident." Big Sky contends that lower Highway onto the cat track and into the ungroomed section of Lower Morning Star unofficially known as Bermuda Triangle is "near" Meyer's ski wreck. If Meyer contends any other area is "near" the area of his ski wreck, Big Sky objects that this discovery request is overly broad.

Big Sky also objects to producing any information that would identify the people who received medical treatment from Big Sky's ski patrol. Such protected health information ("PHI") is confidential and may not be disclosed under Montana and federal law.

Big Sky does not object to this discovery request to the extent it seeks redacted versions of incident reports regarding incidents that occurred in the area of lower Highway onto the cat track and into the ungroomed section of Lower

Morning Star unofficially known as Bermuda Triangle, and provides the following response:

Please see the documents produced herewith numbered Big Sky 183 - Big Sky 188.

**SUPPLEMENTAL RESPONSE:** Big Sky objects that it does not know precisely where Meyer wrecked. Big Sky knows where Meyer came to rest after his wreck, but during his deposition Meyer was unable to provide a more precise description of the location his ski wreck. Thus, Big Sky still does not know precisely where Meyer wrecked.

Big Sky further objects that this discovery request is vague because Meyer has not defined the term “near the site of Meyer’s accident.” Big Sky contends that lower Highway onto the cat track and into the ungroomed section of Lower Morning Star unofficially known as Bermuda Triangle is “near” Meyer’s ski wreck. If Meyer contends any other area is “near” the area of his ski wreck, Big Sky objects that this discovery request is overly broad.

Big Sky also objects to producing any information that would identify the people who received medical treatment from Big Sky’s ski patrol. Such protected health information (“PHI”) is confidential and may not be disclosed under Montana and federal law.

Big Sky does not object to this discovery request to the extent it seeks redacted versions of incident reports regarding incidents that occurred in the area of lower Highway onto the cat track and into the ungroomed section of Lower Morning Star unofficially known as Bermuda Triangle, and provides the following response:

Please see the documents previously produced as Big Sky 183 - Big Sky 188.

**INTERROGATORY NO. 1 (sic 3):** Please provide the steepest slope angle between the transition of the cat track and the ski run where the incident occurred.

**ANSWER:** Objection, this discovery request is too vague, is overly broad because it does not specify a time frame, and is impossible to answer. The slope angle of the variation in terrain between the cat track and the ski run where Meyer wrecked changes on a daily basis due to weather, snowfall, exposure to the sun, ski traffic, grooming activity, wind, and other environmental changes. Big Sky also objects because it does not yet know if Meyer claims that he wrecked due to the variation in terrain between Highway and the cat track, the variation in terrain between the cat track and the ungroomed section of Lower Morning Star unofficially known as Bermuda Triangle, or on the cat track due Meyer's alleged ski binding failure.

**SUPPLEMENTAL ANSWER:** Objection, this discovery request is too vague, is overly broad because it does not specify a time frame, and is impossible to answer. The slope angle of the variation in terrain between the cat track and the ski run where Meyer wrecked changes on a daily basis due to weather, snowfall, exposure to the sun, ski traffic, grooming activity, wind, and other environmental changes. Big Sky also objects because it does not know if this discovery request seeks information about the variation in terrain between Highway and the cat track, or the variation in terrain between the cat track and the ungroomed section of Lower Morning Star unofficially known as Bermuda Triangle.

**INTERROGATORY NO. 2 (sic 4):** Please provide the name of the ski run that Meyer was on at the time of the accident and the difficulty rating.

**ANSWER:** Big Sky does not yet know exactly where Meyer wrecked because Meyer has thus far refused to testify under oath. Big Sky does not know if Meyer claims that he wrecked when skiing the variation in terrain from Highway onto the cat track, or if Meyer claims he wrecked when skiing the variation in terrain from the cat track into the ungroomed section of Lower Morning Star unofficially known as Bermuda Triangle. Subject to these objections, Big Sky responds as follows:

The cat track between Highway and Lower Morning Star is called the Loop Road or Lower Morning Star Road, and it has a green circle difficulty rating.

Highway has a black diamond difficulty rating. The ungroomed section of Lower Morning Star unofficially known as Bermuda Triangle is part of Lower Morning Star, which has a green circle difficulty rating.

**SUPPLEMENTAL ANSWER:** Although Big Sky knows where Meyer came to rest, Big Sky does not know precisely where Meyer wrecked. With this caveat, the cat track between Highway and Lower Morning Star is called the Loop Road or Lower Morning Star Road, and it has a green circle difficulty rating.

Highway has a black diamond difficulty rating. The ungroomed section of Lower Morning Star unofficially known as Bermuda Triangle is part of Lower Morning Star, which has a green circle difficulty rating.

**REQUEST FOR PRODUCTION NO. 5 (sic 15):** Please produce all documents related to previous ski falls and/or injuries in the last ten years that have occurred at or near the transition from any ski run with a similar difficulty to the one Meyer was on to a cat walk or cat track.

**RESPONSE:** Big Sky objects that it does not yet know if Meyer claims that he wrecked due to the variation in terrain between Highway and the cat track, the variation in terrain between the cat track and the ungroomed section of Lower Morning Star unofficially known as Bermuda Triangle, or due to Meyer's alleged binding failure. Big Sky does not, therefore, know exactly which variation in terrain is at issue.

Big Sky also objects that this discovery request is vague and overly broad and responding to it would be unduly burdensome because Meyer has not defined the transition(s) that he contends are similar to variation in terrain at the location of Meyer's ski wreck. Big Sky therefore responds with information about the variations in terrain Big Sky considers to be most similar to the area of Meyer's wreck and responds as follows:

Please see the documents produced herewith numbered Big Sky 189 - Big Sky 190.

**SUPPLEMENTAL RESPONSE:** Big Sky objects that although it knows where Meyer came to rest, Big Sky does not know precisely where Meyer wrecked. Big Sky also objects that this discovery request is vague and overly broad and responding to it would be unduly burdensome because Meyer has not defined the transition(s) that he contends are similar to the variation in terrain at the location of Meyer's ski wreck. Big Sky therefore responds with information about the variations in terrain Big Sky considers to be most similar to the area of Meyer's wreck and responds as follows:

Please see the documents previously produced as Big Sky 189 - Big Sky 190.

DATED this 10<sup>th</sup> day of May, 2019.

CROWLEY FLECK PLLP

By /s/ Ian McIntosh

Ian McIntosh

Mac Morris

P.O. Box 10969

Bozeman, MT 59719-0969

Attorneys for Big Sky Resort



**VERIFICATION**

With respect to the Interrogatories:

I, \_\_\_\_\_, being duly sworn, deposes and says that the deponent is an authorized agent of Big Sky Resort, and that the deponent verifies the foregoing for and on behalf of Big Sky Resort, and is duly authorized so to do; that the matters stated therein are not within the personal knowledge of the deponent; that the facts stated therein have been assembled by authorized employees and counsel of Big Sky Resort, and the deponent is informed that the facts stated therein are true.

By: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing document was served upon the following counsel of record by the means designated below this 10<sup>th</sup> day of May, 2019.

☒ U.S. Mail

☐ Hand Delivery

☐ Facsimile

☐ FedEx

☒ E-Mail

John Meyer

P.O. Box 412

Bozeman, MT 59771

*Attorney for Plaintiffs*

☒ U.S. Mail

☐ Hand Delivery

☐ Facsimile

☐ FedEx

☒ E-Mail

Brad Condra

Milodragovich, Dale &

Steinbrenner, P.C.

P.O. Box 4947

Missoula, MT 59806-4947

bcondra@bigskylawyers.com

*Attorneys for Salewa USA, LLC*

/s/ Ian McIntosh

Ian McIntosh